



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

June 29, 2023

BY ECF

Hon. Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

**Re: *United States v. Joshua Adam Schulte*,
S3 17 Cr. 548 (JMF)**

Dear Judge Furman:

The Government respectfully submits this letter pursuant to the Court's Order, dated June 22, 2023, directing the Government to (a) "ensure that a PDF viewer is available to Defendant" on the discovery review computer at the Metropolitan Detention Center ("MDC"), and (b) "provide to Defendant a copy (or the original) of" "the notebooks and CD-ROMs that were seized from his cell pursuant to the searches that occurred last fall." (D.E. 1062 at 3).

I. Access to a PDF Viewer

The discovery review computer to which the defendant has access at the MDC has the program Quick View Plus installed on it, which allows him to view PDFs and a variety of other file types. The Government has conferred with the MDC court liaison and information technology staff, which provided the Government with a list (attached as Exhibit A) of file formats supported by Quick View Plus, including, among many others, PDF and Microsoft Excel files. The MDC court liaison also personally confirmed that the discovery computer to which the defendant has access is in fact capable of opening PDF files, as reflected in the attached image (Exhibit B). The undersigned have also been able to use Quick View Plus installed on Government computers to open successfully a sample of PDF files provided to the defendant in discovery, including files that were scanned without OCR. (See D.E. 1041 at 5). After conferring with MDC staff, the Government has not been able to confirm precisely when Quick View Plus was installed on MDC computers, but the best recollection of MDC staff is that some version of the software has been available for several years.

II. Return of Notebooks and CD-ROMs

Today, the Government delivered by hand to the MDC copies of all 12 notebooks that were seized on or about October 5, 2022, from the defendant's cell and copies of 14 of the 64 compact discs seized by the FBI from the defendant's cell, following a preliminary review by members of the wall team—pursuant to the terms of the search warrants—to ensure that they did not appear to contain potential contraband or classified information. MDC legal staff confirmed that those materials were provided to the defendant in person.

With respect to the CDs, in view of the volume of material, on June 23, 2023, the Government asked standby counsel by email for “any guidance that you/[the defendant] can provide about which ones the wall team should prioritize that may have the work product that he’s been referring to that he needs.” To facilitate that process, on June 26, 2023, the Government provided standby counsel with photographs of the outside of all of the discs that had been seized from the defendant's cell, reiterated the request for any assistance from standby counsel or the defendant in identifying the discs that “contain the material that he’s looking for” and that Government was “happy to have the wall team put those at the top of the list,” and offered to confer with standby counsel “to discuss any ways that we can be most efficient about addressing particular items that [the defendant] wants to have soonest.” The Government did not receive a response to these requests.

Of the 64 discs seized from the defendant's cell, the labels of 26 discs identify them as materials provided by the U.S. Attorney's Office (largely in connection with the June 2022 trial). The contents of those discs, which contain discovery and trial materials, already were provided to the defendant on (a) discs containing the trial related materials provided to the defendant at the MDC in October and November 2022 and (b) a discovery hard drive provided to the defendant at the MDC in April 2023. Six other discs were marked as pertaining to “Schulte v. Bureau of Prisons et al., 20 Civ. 2795 (PGG) (GWG),” a civil case unrelated to this pending criminal litigation, and in which the defendant is represented by counsel. Accordingly, the Government has not provided the defendant with copies of those 32 discs.

The wall team conducted the preliminary review of the 32 other discs. Six were blank. From the remaining 26 discs, the wall team identified five discs as containing potentially classified material, which the Government is providing to walled-off personnel from the original classifying authority for formal classification review. The wall team identified two discs as containing potential child sexual abuse materials and/or other inappropriate images, which have been segregated for further review and handling pursuant to the terms of the Adam Walsh Act. The wall team identified five discs that appeared to contain data but that the wall team was unable to open, suggesting that the data on those discs had been encrypted; those discs are being provided to a walled-off computer examiner for further analysis. The remaining 14 discs comprise the material that has been returned to the defendant today.

To the extent that the ongoing wall review of the other 12 discs determines that copies of them may be provided to the defendant, the Government will do so promptly. Because of the wall review process required by the various search warrants, the undersigned are not able to estimate at this time precisely how long it will take to reach a final determination on all of those materials.

As indicated in the Government's June 23 and 26, 2023 communications to standby counsel, however, to the extent that the defendant or standby counsel is able to identify the discs most pertinent to the defendant's preparation for the upcoming trial, the Government will seek to expedite the review of any identified materials as soon as possible.

Respectfully submitted,

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cc: Standby counsel (by ECF)
Joshua Adam Schulte (by U.S. Mail)